

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5302 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DABHOI NAGRIK SAHAKARI BANK LTD.

Versus

MUKESHBHAI JAYANTILAL PATEL & ORS.

Appearance:

MR SHIRISH JOSHI for Petitioners

None present for Respondent No. 1

MR MUKESH PATEL for Respondents No. 2 and 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/01/97

ORAL JUDGEMENT

1. The Dabhoi Nagrik Sahakari Bank Ltd., Dabhoi, District Baroda, filed this petition before this court challenging thereunder the order of the respondent No.3 dated 16th July, 1987, under which the amendment made by the petitioner-Society in the bye-law 27(b)(2) was not approved.

2. The facts of the case, in brief, are that the society, herein, the Bank decided to amend its bye-laws regarding the qualification of a member to become the Director of the Bank. This amendment was felt necessary in view of the Madhavdas Committee Report, the Committee appointed by the Reserve Bank of India. The bye-law No.27(b)(2) of the Society was amended and it has been provided that whoever wants to become the Director should have deposited Rs.500/- for last two years. The decision taken by the Society was forwarded to the District Registrar, Co-operative Society, Baroda for his approval and sanction under sec.13 of the Act. The District Registrar rejected the amendment and declined to grant his approval. The matter was carried further to the Registrar by way of appeal. The appeal was allowed partially under the order dated 14th November, 1986. The respondent No.1 has taken the matter in revision before the State Government and prayed therein for the grant of interim relief. The petitioner filed the Special Civil Application No.3415/87 before this Court challenging the order of the respondent No.3 to grant the stay order in favour of the respondent no.1. The Special Civil Application came to be disposed of with the direction that the respondent No.3 to dispose of the revision application itself on merits. Under the order dated 16th July, 1987, the revision application has been allowed and the amendment made in the bye-laws by the Society was not accepted. Hence, this Special Civil Application.

3. One of the reasons given by the respondent No.3 not to accept the amendment made by the Society in the bye-law No.27(b)(2) of the bye-laws, was that it operates from retrospective effect. The learned counsel for the petitioner very fairly submitted that the Society may be given an opportunity of framing fresh bye-laws giving effect to from future date. In view of this concession made by the learned counsel for the petitioner, it is not necessary for this court to go on merits of the matter. However, the amendment made in the bye-laws prima-facie does not seems to be incorrect or unwarranted, but the giving effect to this amendment from retrospective effect may result in deprivation of the right to contest the election to many of the persons.

4. In view of this fact, this Special Civil Application is disposed of in the terms that it shall be open to the petitioner to amend the bye-laws afresh and while doing so, the judgment given by the State Government in revision application will not come in their way. However, while amending the bye-laws, it shall be open to the petitioner to see whether the amount of

Rs.500/- to be deposited with the Bank by a person who contest the election for the Board of Directors is adequate or not, because looking to the fact of hike in prices even of essential commodities and other bare necessities of life, the amount should be an appropriate amount. Moreover, it is a case where the person concerned has to contest the election for a member of Board of Directors and looking to that status also, the amount of Rs.500/- as fixed, may be towards the lower side. This Special Civil Application stands disposed of accordingly. Rule stands disposed of in the aforesaid terms with no order as to costs.

zgs/-